

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
Atlanta Division**

JENNIFER CHATTMAN,)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	
ALPHA RECEIVABLES, INC.)	1:09-cv-1525-GET-ECS
FREDERICK J. HANNA &)	JURY TRIAL DEMANDED
ASSOCIATES, P.C.)	
HSBC CARD SERVICES (III) INC.)	
Defendants.)	

**MOTION TO DISQUALIFY DEFENDANTS' COUNSEL
AND BRIEF IN SUPPORT OF MOTION**

NOW COMES Plaintiff, by and through her counsel, and files this Motion to Disqualify Defendants' Counsel and Brief in Support of Motion. In filing this Motion, Plaintiff respectfully shows the Court as follows:

I. FACTS

Plaintiff filed suit in this matter on June 9, 2009.¹ Frederick J. Hanna, Dennis E. Henry, Roy D. Reagin, Jr., Scot W. Groghan, M. Scot Peskin, Joseph C. Cooling, and James Freany (collectively referred to herein as "material witnesses") have acted as agents for Defendants during Defendants' violation of the federal Fair Debt Collection Practices Act ("FDCPA"). This is evident from their

¹ Complaint, Docket No. 001, filed on June 9, 2009.

signatures on various documents that Defendants have used in committing the alleged fraud.

Insofar as these material witnesses have affixed their respective signatures to one or more of the documents that form the basis for Plaintiff's claims, these material witnesses have personal knowledge of Defendants' involvement in the torts set forth in the Complaint. As such, Plaintiff has expressly named these material witnesses in Plaintiff's Initial Disclosures.²

II. ARGUMENT

Rule 3.7 of the Georgia Rules of Professional Conduct disqualifies an attorney from representing a client if the attorney is "likely to be a witness."³ The Rules of Professional Conduct explicitly recite:

A lawyer shall not act as an advocate at trial in which the lawyer is likely to be a necessary witness except where:

- (1) the testimony relates to an uncontested issue;
- (2) the testimony relates to the nature and value of legal services rendered in the case; or
- (3) disqualification of the lawyer would work substantial hardship on the client.⁴

Here, the material witnesses' testimony relates to the very issues that are contested. Namely, Defendants' violation of the FDCPA, fraud, and the federal

² Plaintiff's Initial Disclosures, Docket No. 022, filed on October 6, 2009.

³ Rule 3.7, Georgia Rules of Professional Conduct.

⁴ Rule 3.7, Georgia Rules of Professional Conduct, emphasis supplied.

civil RICO claims. As such, Defendants cannot avail themselves of the first exception. Also, neither of the other two exceptions permits these material witnesses from acting as advocate for Defendants.

Therefore, Plaintiff moves this court to GRANT Plaintiff's Motion, and disqualify the material witnesses from acting as attorney-advocates for Defendants. A Proposed Order is appended to this motion for the convenience of this honorable court.

[SIGNATURE TO FOLLOW]

Respectfully submitted this 16th day of October, 2009.

/s/ Daniel Eliot DeWoskin

Daniel Eliot DeWoskin, Esq.
Georgia Bar No. 220327

DeWoskin Law Firm, LLC
14 Lenox Pointe, NE
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(404) 869-3565

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CERTIFICATE OF SERVICE

I hereby certify that on this day I served a true and correct copy of MOTION
TO DISQUALIFY DEFENDANTS' COUNSEL AND BRIEF IN SUPPORT OF
MOTION upon the following counsel via electronic mail to:

Scot Groghan, Esq.
Frederick J. Hanna & Associates, P.C.
Attorney for Defendants Alpha Receivables, Inc. and Frederick J. Hanna &
Associates, P.C.
1427 Roswell Road
Marietta, Georgia 30062

James Freaney
Frederick J. Hanna & Associates, P.C.
Attorney for Defendant HSBC
1427 Roswell Road
Marietta, Georgia 30062

[Signature on following page]

Respectfully submitted this 16TH day of October, 2009.

Counsel for Plaintiff:

/s/ Daniel Eliot DeWoskin

Daniel Eliot DeWoskin, Esq.
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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1 (D), counsel hereby files with the Court this Certificate of Compliance. Plaintiff's documents were composed with Times New Roman 14-point font.

Respectfully submitted this 16th day of October, 2009.

Counsel for Plaintiff:

/s/ Daniel Eliot DeWoskin
Daniel Eliot DeWoskin, Esq.
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**-PROPOSED-
ORDER**

This Court finds that Frederick J. Hanna, Dennis E. Henry, Roy D. Reagin, Jr., Scot W. Groghan, M. Scot Peskin, Joseph C. Cooling, and James Freany are material witnesses to these proceedings and are, therefore, disqualified from representing Defendants.

This Court hereby ORDERS Defendants to find substitute counsel within thirty (30) days of the date of this Order.

SO ORDERED this ____ day of _____, 2009.

Hon. G. Ernest Tidwell
United States District Court, Northern District of Georgia